

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Zurich American Insurance Company

Plaintiff,

vs.

Asphalt Paving Systems, Inc.

Defendant.

Civil Action No.:

1:22-cv-01535-CPO-MJS

**THIRD JOINT MOTION TO
EXTEND CASE MANAGEMENT
DEADLINES**

Plaintiff Zurich American Insurance Company (“Zurich”) and Defendant Asphalt Paving Systems, Inc. (“Asphalt”), pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rule 6.1, jointly move this Court to extend all remaining case management deadlines by approximately 60 days. This is the parties’ third request for an extension of discovery deadlines.

In support, the parties jointly state:

A. Procedural History

1. Zurich commenced this action against Asphalt on March 18, 2022, and Asphalt was served with process on March 25, 2022. (ECF Nos. 1, 5.)

2. Thereafter, Asphalt filed a partial motion to dismiss, and Asphalt objected to discovery while the motion to dismiss was pending. (ECF Nos. 30, 34.)

3. On January 13, 2023, this Court entered an Order granting in part and denying in part Asphalt’s motion to dismiss. (ECF No. 35-36.)

B. Scheduling Order

4. The Court conducted an Initial Conference on March 1, 2023. (ECF No. 39.)

5. Following the Initial Conference, the Court entered its Scheduling Order setting various case management deadlines. (ECF No. 42.)

6. The parties filed a Joint Motion to Extend Case Management Deadlines on September 8, 2023 seeking a 60-day extension. (ECF Nos. 46, 47.) The Court granted the motion and extended the deadlines. (ECF No. 48.)

7. The parties filed a Second Joint Motion to Extend Case Management Deadlines on January 17, 2024 seeking approximately an 80-day extension. (ECF No. 51.) The Court granted the motion and extended the deadlines. The current deadline to conclude pretrial factual discovery is April 19, 2024. (ECF No. 52.)

C. Discovery Completed to Date

Written Discovery

8. Consistent with the Scheduling Order, the parties each made initial disclosures by March 15, 2023 and served their initial written discovery requests by April 1, 2023. (ECF No. 42 at ¶ 1). Zurich served supplemental written discovery requests on November 16 and December 6, 2023.

9. The parties' responses to the written discovery requests are complete and there are no remaining disputes surrounding those responses.

10. Additionally, Zurich served subpoenas for documents on seven third-parties, including Asphalt's insurance brokers, several state departments of motor vehicles, and the United States Department of Transportation ("USDOT"). The parties are still awaiting a response from the subpoena to the USDOT.

Oral Discovery

11. Zurich served seven notices of deposition directed to Asphalt's employees and representatives, and two subpoenas for depositions directed to Asphalt's brokers. The depositions

of Asphalt's brokers have already taken place, and the depositions of Asphalt's employees are scheduled for March and April 2024.

12. Asphalt requested the depositions of two Zurich employees and a Zurich corporate representative, and those depositions are scheduled to proceed in April and May 2024.

D. Request for Extension of Time

13. The parties seek a 60-day extension of fact discovery, so that there is additional time to complete all depositions. The parties were unable to schedule all 12 depositions before April 19, 2024, but have reached an agreed schedule that will allow all deponents to be deposed by early May. The parties further request that expert discovery similarly be extended by 60-days, as the fact discovery will be important to the expert opinions.

14. These extensions result in the following updated case management schedule:

	Current Deadline	Extended Deadline
Pretrial factual discovery	April 19, 2024	June 18, 2024
Plaintiff's expert disclosures	May 6, 2024	July 8, 2024
Defendant's expert disclosures	June 3, 2024	August 2, 2024
Expert depositions	July 8, 2024	September 6, 2024
Dispositive motions	August 3, 2024	October 4, 2024

15. This motion is made prior to the expiration of the existing discovery period. (*See* ECF No. 52.)

16. The parties previously filed two requests to extend the schedule, which were both granted. (ECF Nos. 48, 52.)

17. "Good cause" exists to modify the Scheduling Order because "the deadlines set forth in the scheduling order 'cannot reasonably be met despite the diligence of the party seeking

the extension,”” for the reasons explained above. *Castellani v. City of Atl. City*, No. 13-5848 (RMB/AMD), 2015 U.S. Dist. LEXIS 186949, at *5 (D.N.J. Aug. 4, 2015); *see also Hall v. Cole*, No. 08-5904 (NLH/AMD), 2009 U.S. Dist. LEXIS 88635, at *7 (D.N.J. Sept. 25, 2009) (finding good cause for an extension).

WHEREFORE, the parties jointly and respectfully request the Court to enter an Order extending the remaining case management deadlines by approximately 60 days, consistent with Paragraph 13 and 14 above. A proposed order is submitted herewith.

JOINTLY SUBMITTED BY:

PLAINTIFF

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